

**REMARKS**

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-8 were pending prior to the Office Action. Claims 9-14 have been added through this Reply. Therefore, claims 1-14 are pending. Claims 1, 4, 9, and 12 are independent.

**§ 102 REJECTION – LUMELSKY**

Claims 1-2, 4-6, and 8 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Lumelsky, et. al. (USP 6,516,350, hereinafter “Lumelsky”). Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Lumelsky fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, in part, “a service requesting step in which one of the plurality of client requests a multimedia service *from the server.*” *Emphasis added.* Independent claim 4 recites a similar feature. As will be demonstrated below, Lumelsky cannot be relied upon to teach or suggest at least this feature.

Lumelsky is directed toward a system that provides ability to map, reserve, monitor and manage a dynamic plurality of computing and storage resources via a collection of arbitrators, policies, and directories. *See column 1, lines 9-16.* Lumelsky discloses that it is an object of Lumelsky's invention to provide a system and method for managing and controlling the distribution, sharing and pulling of resources in an internet/worldwide web environment in a manner that is seamless to the users who are requesting access to multimedia content. *See column 5, lines 16-21.* Lumelsky further discloses that in this system, a plurality of resources such servers and databases exist. The servers and databases provide access to multimedia content and services. Also, a plurality of clients request access to the content and services. To manage the request through to the contents, Lumelsky discloses that an intermediary referred to as the Service Control Plane (SCP) exists to manage the available resources so that client requests may be satisfied. *See column 5, lines 27-36.*

When a client requires a service, the client makes the request to the Service Control Plane. The Service Control Plane then responds to these requests by searching the servers that are available to provide the requested service and provides the mapping information to the client. The client then may accept or reject the recommendation from the Service Control Plane. *See column 5, lines 37-48.* In addition, Lumelsky discloses that the Service Control

Plane also monitors the availability of the resources, maps the request to the servers with the available resources, predicts utilization of the end resources, and if necessary, dynamically redistributes the content so that resources may be efficiently utilized. *See column 9, lines 4-14.*

It is important to note that the clients make requests *only* of the content and services. The client does *not* make requests directed to a specific server. Indeed, Lumelsky discloses that the Service Control Plane is a middleware located between the clients and the server resources to interrupt the client request. *See column 8, line 64 - column 9, line 4.* Visually, Figures 4 and 5 clearly show that the Service Control Plane 400 is placed between the clients 122-124 and the servers 111-114.

Because of the existence of the Service Control Plane 400, Lumelsky cannot be relied upon to teach or suggest the feature of a service requesting step in which the client requests the multimedia service from the server.

The Examiner's reliance on column 15, lines 32-40 of Lumelsky is misguided. The relied upon portion of Lumelsky merely indicates that the server resources exist in a computer networking environment and are available to satisfy the request of the client. The relied upon portion of Lumelsky in no way can be interpreted to teach or suggest the requesting step in which the client actually requests a service from the server. Indeed, Lumelsky actually

teaches away since it clearly indicates that the middleware Service Control Plane intercepts all requests from the clients for a service.

For at least the reasons stated above, independent claims 1 and 4 are distinguishable over Lumelsky. Claims 2, 5-6, and 8 depend from independent claims 1 and 4, directly or indirectly. Therefore, these dependent claims are also distinguishable over Lumelsky for at least the reasons stated with respect to the independent claims as well as on their own merit.

Applicant respectfully requests that the rejection of claims 1-2, 4-6 and 8, based on Lumelsky, be withdrawn.

#### § 103 REJECTION – LUMELSKY

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Lumelsky. Applicant respectfully traverses.

It has been shown above that independent claims 1 and 4 are distinguishable over Lumelsky. Claims 3 and 7 depend from independent claims 1 and 4. Therefore, claims 3 and 7 are also distinguishable over Lumelsky for at least the reasons stated with respect to the independent claims or on their own merit.

Applicant respectfully requests that the rejection of claims 3 and 7 based on Lumelsky, be withdrawn.

**NEW CLAIMS**

Claims 9-14 have been added through this Reply. All new claims are believed to be distinguishable over the cited reference. Applicant respectfully requests that the new claims 9-14 be allowed.

**CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact the undersigned, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

U.S. Application No. 09/750,215

Docket No. 0630-1203P

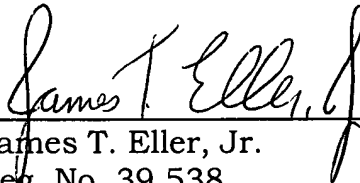
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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